

Message Text

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INFO OCT-01 EUR-12 ISO-00 ACDA-10 CIAE-00 INR-07 L-03
NSAE-00 NSC-05 EB-07 NRC-07 OES-07 DODE-00 SS-15
SP-02 FEA-01 OIC-02 AF-10 ARA-14 EA-09 NEA-10
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R 221444Z JUN 77
FM AMEMBASSY VIENNA
TO SECSTATE WASHDC 2211
INFO USERDA HQ WASHDC
USERDA HQ GERMANTOWN

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E.O. 11652: N/A
TAGS: AORG, OCON, IAEA, TECH, PARM
SUBJECT: IAEA BOARD CONSIDERATION OF SAFEGUARDS IN RELATION TO
TECHNICAL ASSISTANCE

REF: (A) VIENNA 4916, (B) IAEA VIENNA 4108

1. APPLICATION OF SAFEGUARDS IN RELATION TO THE GRANTING
OF TECHNICAL ASSISTANCE WAS DISCUSSED AT AN INFORMAL
MEETING OF JUNE 13, AND AGAIN AT THE JUNE 17 MEETING
OF BOARD OF GOVERNORS (SEE SUMMARY REPORT, PARA 5,
REFA).

2. AT JUNE 13 MEETING THE GROUP DISCUSSED A SUMMARY
(WHICH HAD BEEN PREPARED BY SECRETARIAT) REQUESTED BY
THE SAME GROUP OF ITS EARLIER MEETINGHOF MAY 16,
REPORTED REF. DURING JUNE 13 DISCUSSION, GROUP
AGREED THAT WITH RELATIVELY FEW MODIFICATIONS THE
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SUMMARY, IN FORM OF BOARD DOCUMENT COULD
BE SUBMITTED TO THE BOARD FOR ITS CONSIDERATION, AND
AN INFORMAL CONSENSUS WAS REACHED ON A NUMBER OF
THESES MODIFICATIONS. THE MAJOR UNRESOLVED ITEM WAS
REQUIREMENTS FOR SAFEGUARDS IN RELATION TO SCIENTIFIC
VISITS AND FELLOWSHIPS. REPS OF EGYPT AND PAKISTAN
WERE UNYIELDING IN THEIR POSITION THAT THIS CATEGORY

OF TECHNICAL ASSISTANCE COULD NEVER MAKE A "SUBSTANTIAL CONTRIBUTION," AND THAT CONSEQUENTLY REVIEW BY SECRETARIAT FOR REQUIREMENT FOR SAFEGUARDS WAS UNNECESSARY. U.S. REF, SUPPORTED IN GENERAL TERMS BY REPS OF UK AND

FRG, HELD THAT SECRETARIAT SHOULD REVIEW REQUESTS FOR SCIENTIFIC VISITS AND FELLOWSHIPS TO DETERMINE

WHETHER A SUBSTANTIAL CONTRIBUTION IS BEING MADE TO ACTIVITIES INVOLVING SENSITIVE TECHNOLOGY, AND SHOULD NOTIFY THE REQUESTING COUNTRIES AND SUBSEQUENTLY PROSPECTIVE HOST COUNTRIES WHEN REQUIREMENT FOR SAFEGUARDS APPEARS WARRANTED. JUNE 13 MEETING ENDED WITH THIS ISSUE UNRESOLVED.

3. DURING PERIOD JUNE 14-16 U.S. REPS HELD INFORMAL

CONSULTATIONS WITH REPS FROM PAKISTAN AND EGYPT IN ATTEMPT TO ACHIEVE MUTUALLY ACCEPTABLE POSITION ON THIS ISSUE. SUCH POSITION WAS ACHIEVED AMONG THE THREE PARTIES ON JUNE 17 ONLY ONE HOUR PRIOR TO DISCUSSION BY BOARD OF AGENDA ITEM 10(C), APPLICATION OF SAFEGUARDS TO THE GRANTING OF TECHNICAL ASSISTANCE. BECAUSE INSUFFICIENT TIME REMAINED TO CIRCULATE A DOCUMENT REFLECTING TEXTUAL CHANGES TO OTHER MEMBERS OF THE BOARD FOR THEIR CONSIDERATION, THE BOARD WAS INFORMED BY UNCLASSIFIED

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CHAIRMAN CISSE THAT A DRAFT HAD BEEN DEVELOPED IN CONSULTATION AMONG REPS OF SEVERAL STATES WHICH HOPEFULLY WOULD ATTRACT A CONSENSUS. SECRETARIAT WAS INSTRUCTED TO PREPARE AND CIRCULATE TO BOARD MEMBERS DOCUMENT TAKING INTO ACCOUNT OUTCOME OF THESE CONSULTATIONS, AND AGENDA ITEM 10(C) WAS DEFERRED FOR CONSIDERATION BY SEPTEMBER BOARD.

4. SECRETARIAT AHS ADVISED MISSION THAT IT WILL SOON PREPARE A DRAFT OF SUCH DOCUMENT AND CONSULT WITH A NUMBER OF REPRESENTATIVE MISSIONS (U.S. INCLUDED), BEFORE DISTRIBUTION DURING FIRST HALF OF AUGUST.

5. TEXT FOLLOWS OF CURRENT DRAFT, PRODUCED DURING CONSULTATIONS BETWEEN REPS OF U.S., PAKISTAN AND EGYPT, WHICH SHOULD BE THE BASIS FOR SECRETARIAT'S DRAFT OF BOARD DOCUMENT.

QUOTE 1. AMONG THE NUMEROUS AND DIVERSE REQUESTS FOR TECHNICAL ASSISTANCE EXAMINED BY THE AGENCY EACH YEAR A SMALL NUMBER MAY APPEAR TO RELATE, DIRECTLY OR

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INDIRECTLY, TO INNER QUOTE SENSITIVE TECHNOLOGICAL AREAS
INNER QUOTE IN RELATION TO WHICH SAFEGUARDS ARE NORMALLY
APPLIED. THE QUESTION THEREFORE ARISES AS TO WHETHER AND,
IF SO, TO WHAT EXTENT SAFEGUARDS SHOULD BE APPLIED IN RELATION
TO A DEFINED AND LIMITED PART OF THE AGENCY'S TECHNICAL
ASSISTANCE PROGRAM BEARING IN MIND THAT TECHNICAL ASSISTANCE
MAY TAKE A NUMBER OF DIFFERENT FORMS (PROVISION OF EQUIPMENT,
EXPERTS' SERVICES, FELLOWSHIPS AND SCIENTIFIC VISITS) AND
RANGE FROM FELLOWSHIPS COSTING A FEW THOUSAND DOLLARS TO MAJOR
PROJECTS EXECUTED UNDER THE UNDP PROGRAM.

QUOTE 2. ANY POLICY LAID DOWN BY THE BOARD REGARDING THE
APPLICATION OF SAFEGUARDS IN RELATION TO TECHNICAL ASSISTANCE
WILL NEED FIRST TO BE IN ACCORDANCE WITH THE AGENCY'S
STATUTE UNDER WHICH THE AGENCY INNER QUOTE SHALL ENSURE, SO
FAR AS IT IS ABLE, THAT ASSISTANCE PROVIDED BY IT OR AT ITS
REQUEST OR UNDER ITS SUPERVISION OR CONTROL IS NOT USED IN
SUCH A WAY AS TO FURTHER ANY MILITARY PURPOSE INNER QUOTE AND
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INNER QUOTE IS AUTHORIZED TO ESTABLISH AND ADMINISTER SAFEGUARDS DESIGNED TO ENSURE THAT SPECIAL FISSIONABLE AND OTHER MATERIALS, SERVICES, EQUIPMENT, FACILITIES, AND INFORMATION MADE AVAILABLE BY THE AGENCY OR AT ITS REQUEST OR UNDER ITS SUPERVISION OR CONTROL ARE NOT USED IN SUCH A WAY AS TO FURTHER ANY MILITARY PURPOSE INNER QUOTE (FOOTNOTE - SEE ARTICLES II AND III.A.5 RESPECTIVELY). SECONDLY, SUCH A POLICY MUST CLEARLY TAKE FULL ACCOUNT OF THE VIEWS OF ALL CONCERNED, INCLUDING BOTH RECIPIENT AND DONOR COUNTRIES. FURTHER, THE POLICY WILL BE DETERMINED TO A LARGE EXTENT BY PRACTICAL CONSIDERATIONS BEARING IN MIND THE SCALE OF OPERATIONS AND THE SPECIAL CHARACTERISTICS OF CERTAIN FORMS (E.G., FELLOWSHIPS) OF TECHNICAL ASSISTANCE. FINALLY, IT WILL BE NECESSARY TO ENSURE UNIFORMITY OF TREATMENT AMONG ALL MEMBER STATES IN FULFILLMENT OF ARTICLE III.C OF THE STATUTE.

QUOTE 3. ATTEMPTS TO DRAW UP PRECISE THRESHOLD CRITERIA FOR THE TRIGGERING OF SAFEGUARDS IN CERTAIN FIELDS COULD BE COUNTERPRODUCTIVE AND IT IS DESIRABLE THAT THE SECRETARIAT, IN ANALYZING REQUESTS ON A CASE-BY-CASE BASIS, SHOULD BE ALLOWED A CERTAIN AMOUNT OF FLEXIBILITY IN APPLYING THIS POLICY WITHIN BROAD GUIDELINES ESTABLISHED BY THE BOARD. WHATEVER THE SECRETARIAT'S ASSESSMENT OF THE NEED TO PROVIDE FOR SAFEGUARDS MAY BE, ALL CASES WILL BE SUBJECT TO APPROVAL BY THE BOARD. IN PARTICULAR, CASES WHERE THERE IS DISAGREEMENT BETWEEN THE SECRETARIAT AND A MEMBER STATE CONCERNING THE APPLICATION OF THIS POLICY TO A PROPOSAL FOR TECHNICAL ASSISTANCE PUT FORWARD BY THAT STATE WILL BE REFERRED TO THE BOARD FOR DECISION. IN THIS MANNER AN AGENCY POLICY WILL EVOLVE GUARANTEEING OBJECTIVE AND UNIFORM TREATMENT OF ALL REQUESTS.

QUOTE 4. FIELDS OF APPLICATION. THE INNER QUOTE SENSITIVE UNCLASSIFIED

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TECHNOLOGICAL AREAS INNER QUOTE WHICH ARE REFERRED TO IN PARAGRAPH 1 ABOVE AND WHICH ARE RELEVANT TO THE APPLICATION OF SAFEGUARDS ARE: (A) URANIUM ENRICHMENT; (B) REPROCESSING OF SPENT FUEL; (C) PRODUCTION OF HEAVY WATER; AND (D) HANDLING OF PLUTONIUM, INCLUDING MANUFACTURE OF PLUTONIUM AND MIXED URANIUM/PLUTONIUM FUEL. THIS LIST, WHICH WILL BE KEPT UNDER REVIEW BY THE DIRECTOR GENERAL, MAY BE MODIFIED BY THE BOARD FROM TIME TO TIME IN LIGHT OF EXPERIMENTATION.

QUOTE 5. EXTENT OF CONTRIBUTION. SAFEGUARDS WILL BE APPLICABLE IN RELATION TO TECHNICAL ASSISTANCE IN THE FIELDS LISTED IN PARAGRAPH 4 ABOVE ONLY IF IT APPEARS THAT A SUBSTANTIAL CONTRIBUTION INNER QUOTE IS BEING MADE TO THE PROJECT ASSISTED. IN THE ABSENCE OF ANY PRECISE CRITERIA, AN

ELEMENT OF JUDGMENT WILL BE REQUIRED WHICH MUST TAKE

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R 221444Z JUN 77
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INTO ACCOUNT, INTER ALIA, THE NATURE AND SCOPE OF THE
INFORMATION BEING TRANSFERRED, THE SIGNIFICANCE OF
EQUIPMENT SUPPLIED, THE PRECISE NATURE AND SIZE OF
THE PROJECT OR THOSE ASPECTS OF IT FOR WHICH
ASSISTANCE IS REQUIRED, AND THE LEVEL AND EXTENT OF
EXPERTISE OR TRAINING INVOLVED.
FOOTE 6. EXCLUSIONS. THE USE OF TRANSFERRED INFORMATION WHICH IS FREELY AVAILABLE TO THE PUBLIC, 3.G.,
THROUGH SCIENTIFIC AND TECHNICAL JOURNALS, PROCEEDINGS
OF CONFERENCES AND UNCLASSIFIED REPORTS, ETC., WILL

GENERALLY NOT REQUIRE THE APPLICATION OF SAFEGUARDS.
MOREOVER, SAFEGUARDS WILL ORDINARILY NOT BE APPLIED
IN RELATION TO SEVERAL TYPES OF AGENCY ASSISTANCE TO
ITS MEMBER STATES, INCLUDING PARTICIPATION IN IAEA
CONFERENCES, SYMPOSIA AND TRAINING COURSES,
PARTICIPATION IN INIS, IN NUCLEAR DATA ACTIVITIES,
INCLUDING FUSION DATA, AND IN OTHER GENERALIZED
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ARRANGEMENTS OR PROJECTS FOR THE TRANSFER OF INFORMATION.

QUOTE 7. FORMS OF TECHNICAL ASSSISTANCE SUBJECT TO SAFEGUARDS. DIFFERENT PROCEDURES WILL APPLY IN THE CASE OF TECHNICAL ASSISTANCE IN THE FORM OF PROVISION OF EQUIPMENT AND EXPERTS' SERVICES ON THE ONE HAND AND SCIENTIFIC VISITS AND FELLOWSHIPS ON THE OTHER.

QUOTE 8. ALL EQUESTS FOR TECHNICAL ASSISTANCE INVOLVING THE PROVISION OF EQUIPMENT AND EXPERTS' SERVISSES WILL BE REVIEWED BY THE SECRETARIAT IN ORDER TO DETERMINE WHETHER SAFEGUARDS MAY BE NECESSARY. WHEN SUBMITTING THE DRAFT TECHNICAL ASSISTANCE REGULAR PROGRAM TO THE TECHNICAL ASSISTANCE REGULAR PROGRAM TO THE TECHNICAL ASSISTANCE COMMITTEE IN NOVEMBER OR DECEMBER AN TO THE FEBRUARY BOARD, THE DIRECTOR GENERAL WILL INDICATE WHICH OF THE PROPOSED PROJECTS ARE CONSIDERED TO MAKE A SUBSTANTIAL CONTRIBUTION WITHIN THE SENSITIVE AREAS LISTED IN PARAGRAPH 4 ABOVE, AND IN RELATION TO WHICH SAFEGUARDS MAY NEED TO BE APPLIED. IN THE CASE OF MEMBER STATES WHICH HAVE ACCEPTED SAFEGUARDS IN CONNECTION WITH THE TREATY ON THE NON-PROLIFERATION OF NUCLEAR WEAPONS OR OTHER SAFEGUARDS COVERING ALL THEIR NUCLEAR ACTIVITIES, (FOOTNOTE-FOR EXAMPLE, THROUGH SAFEGUARDS AGREEMENTS CONCLUDED IN CONNECTION WITH THE TREATY FOR THE PROHIBITION OF NUCLEAR WEAPONS IN LATIN AMERICA) OR HAVE CONCLUDED APPROPRIATE AGREEMENTS CONCERNING THE RELEVANT ACTIVITY, NO ADDITIONAL SAFEGUARDS AGREEMENTS RELATING TO THE BENEFITS OBTAINED FORM TECHNICAL ASSISTANCE WILL BE REQUIRED. IN THE CASE OF MEMBERSTATES UNCLASSIFIED

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FOR WIICH SUCH PROVISIONS DO NOT APPLY, SAFE-GUARDS AGREEMENTS, WHERE APPLICABLE, WILL BE DRAW UP BY THE AGENCY TO COVER MATERIALS AND FACILITIES UTILIZING THE TECHNOLOGY BING TRANSFERRED AND WILL BE CONCLUDED BEFORE THE DELIVERY OF THE TECHNICAL ASSISTANCE THE AGREEMENTS WILL PROVIDE FOR THE APPLICATION OF THE SAFEGUARDS ONLY IF THE TECHNICAL ASSISTANCE IS IN FACT EFFECTIVELY GIVEN TO THE REQUESTING COUNTRY.

QUOTE 9. IN THE CASE OF REQUESTS FOR SCIENTIFIC VISITS AND FELLOWSHIPS IN TECHNOLOGICAL AREAS OTHER THAN THOSE SENSITIVE AREAS ACCORDING TO THE PROVISIONS OF

PARAGRAPH 4, THE SECRETARIAT WILL CONTINUE TO FOLLOW
THE EXISTING PROCEDURES AND SAFEGUARDS WILL NOT BE
REQUIRED. IN THE CASE OF SCIENTIFIC VISITS AND FELLOW-
SHIPS IN SENSITIVE AREAS, WHEN IN THE OPINION OF THE
WOULD CONSTITUTE A SUBSTANTIAL CONTRIBUTION
TO A PROJECT IN A REQUESTING MEMBER STATE,
THE MATTER WILL BE BROUGHT TO THE ATTENTION OF THE
BOARD FOR APPROPRIATE ACTION. END QUOTE

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: TECHNICAL ASSISTANCE, AGREEMENTS, NUCLEAR SAFEGUARDS, MEETING REPORTS
Control Number: n/a
Copy: SINGLE
Sent Date: 22-Jun-1977 12:00:00 am
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Decaption Note:
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Disposition Approved on Date:
Disposition Case Number: n/a
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Executive Order: N/A
Errors: N/A
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Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 7
Previous Channel Indicators: n/a
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: 77 VIENNA 4916, 77 IAEA VIENNA 4108
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 01-Nov-2004 12:00:00 am
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 2062884
Secure: OPEN
Status: NATIVE
Subject: IAEA BOARD CONSIDERATION OF SAFEGUARDS IN RELATION TO TECHNICAL ASSISTANCE
TAGS: AORG, OCON, TECH, PARM, IAEA
To: STATE
Type: TE
vdkgvwkey: odb://SAS/SAS.dbo.SAS_Docs/c7676078-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009